

specify the reasons why the Plan is disapproved.

(e) If the Quality Improvement Plan is disapproved, the Early Head Start or Head Start grantee must submit a revised Quality Improvement Plan, making the changes necessary to address the reasons that the initial Plan was disapproved.

(f) If an Early Head Start or Head Start grantee fails to correct a deficiency, either immediately, or within the timeframe specified in the approved Quality Improvement Plan, the responsible HHS official will issue a letter of termination or denial of refunding. Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may appeal terminations and denials of refunding only under 45 CFR part 74 or part 92. A deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award within the meaning of 45 CFR 74.61(a)(1), 45 CFR 74.62 and 45 CFR 92.43(a).

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970-0148 for paragraphs (b) and (c).)

[61 FR 57210, Nov. 5, 1996, as amended at 63 FR 2314, Jan. 15, 1998]

#### § 1304.61 Noncompliance.

(a) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or Head Start grantee, determines that the grantee is not in compliance with Federal or State requirements (including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title) in ways that do not constitute a deficiency, he or she will notify the grantee promptly, in writing, of the finding, identifying the area or areas of noncompliance to be corrected and specifying the period in which they must be corrected.

(b) Early Head Start or Head Start grantees which have received written notification of an area of noncompliance to be corrected must correct the area of noncompliance within the time period specified by the responsible HHS official. A grantee which is unable or

unwilling to correct the specified areas of noncompliance within the prescribed time period will be judged to have a deficiency which must be corrected, either immediately or pursuant to a Quality Improvement Plan (see 45 CFR 1304.3(a)(6)(iii) and 45 CFR 1304.60).

### PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

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AUTHORITY: 42 U.S.C. 9801 *et seq.*

SOURCE: 57 FR 46725, Oct. 9, 1992, unless otherwise noted.

#### § 1305.1 Purpose and scope.

This part prescribes requirements for determining community needs and recruitment areas. It contains requirements and procedures for the eligibility determination, recruitment, selection, enrollment and attendance of children in Head Start programs and explains the policy concerning the charging of fees by Head Start programs. These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR part 1304, as applicable.

[57 FR 46725, Oct. 9, 1992, as amended at 61 FR 57226, Nov. 5, 1996]

#### § 1305.2 Definitions.

(a) *Children with disabilities* means children with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities who, by reason thereof need special education

and related services. The term “children with disabilities” for children aged 3 to 5, inclusive, may, at a State’s discretion, include children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, need special education and related services.

(b) *Enrollment* means the official acceptance of a family by a Head Start program and the completion of all procedures necessary for a child and family to begin receiving services.

(c) *Enrollment opportunities* mean vacancies that exist at the beginning of the enrollment year, or during the year because of children who leave the program, that must be filled for a program to achieve and maintain its funded enrollment.

(d) *Enrollment year* means the period of time, not to exceed twelve months, during which a Head Start program provides center or home-based services to a group of children and their families.

(e) *Family* means all persons living in the same household who are:

(1) Supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in the program, and (2) related to the parent(s) or guardian(s) by blood, marriage, or adoption.

(f) *Funded enrollment* means the number of children which the Head Start grantee is to serve, as indicated on the grant award.

(g) *Head Start eligible* means a child that meets the requirements for age and family income as established in this regulation or, if applicable, as established by grantees that meet the requirements of section 645(a)(2) of the Head Start Act. Up to ten percent of the children enrolled may be from families that exceed the low-income guidelines. Indian Tribes meeting the conditions specified in 45 CFR 1305.4(b)(3) are excepted from this limitation.

(h) *Head Start program* means a Head Start grantee or its delegate agency(ies).

(i) *Income* means gross cash income and includes earned income, military income (including pay and allowances), veterans benefits, Social Security benefits, unemployment compensation, and public assistance benefits. Additional examples of gross cash income are listed in the definition of “income” which appears in U.S. Bureau of the Census, Current Population Reports, Series P-60-185.

(j) *Income guidelines* means the official poverty line specified in section 652 of the Head Start Act.

(k) *Indian Tribe* means any Tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(l) *Low-income family* means a family whose total annual income before taxes is equal to, or less than, the income guidelines. For the purpose of eligibility, a child from a family that is receiving public assistance or a child in foster care is eligible even if the family income exceeds the income guidelines.

(m) *Migrant family* means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity.

(n) *Recruitment* means the systematic ways in which a Head Start program identifies families whose children are eligible for Head Start services, informs them of the services available, and encourages them to apply for enrollment in the program.

(o) *Recruitment area* means that geographic locality within which a Head Start program seeks to enroll Head Start children and families. The recruitment area can be the same as the

service area or it can be a smaller area or areas within the service area.

(p) *Responsible HHS official* means the official of the U.S. Department of Health and Human Services having authority to make Head Start grant awards, or his or her designee.

(q) *Selection* means the systematic process used to review all applications for Head Start services and to identify those children and families that are to be enrolled in the program.

(r) *Service area* means the geographic area identified in an approved grant application within which a grantee may provide Head Start services.

(s) *Vacancy* means an unfilled enrollment opportunity for a child and family in the Head Start program.

[57 FR 46725, Oct. 9, 1992, as amended at 58 FR 5518, Jan. 21, 1993; 63 FR 12657, Mar. 16, 1998]

### § 1305.3 Determining community strengths and needs.

(a) Each Early Head Start grantee and Head Start grantee must identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally-recognized Indian reservation. With regard to Indian Tribes, the service area may include areas designated as near-reservation by the Bureau of Indian Affairs (BIA) or, in the absence of such a designation, a Tribe may propose to define its service area to include nearby areas where Indian children and families native to the reservation reside, provided that the service area is approved by the Tribe's governing council. Where the service area of a Tribe includes a non-reservation area, and that area is also served by another Head Start grantee, the Tribe will be authorized to serve children from families native to the reservation residing in the non-reservation area as well as children from families residing on the reservation.

(b) The grantee's service area must be approved, in writing, by the responsible HHS official in order to assure that the service area is of reasonable size and, except in situations where a near-reservation designation or other expanded service area has been approved for a Tribe, does not overlap with that of other Head Start grantees.

(c) Each Early Head Start and Head Start grantee must conduct a Community Assessment within its service area once every three years. The Community Assessment must include the collection and analysis of the following information about the grantee's Early Head Start or Head Start area:

(1) The demographic make-up of Head Start eligible children and families, including their estimated number, geographic location, and racial and ethnic composition;

(2) Other child development and child care programs that are serving Head Start eligible children, including publicly funded State and local preschool programs, and the approximate number of Head Start eligible children served by each;

(3) The estimated number of children with disabilities four years old or younger, including types of disabilities and relevant services and resources provided to these children by community agencies;

(4) Data regarding the education, health, nutrition and social service needs of Head Start eligible children and their families;

(5) The education, health, nutrition and social service needs of Head Start eligible children and their families as defined by families of Head Start eligible children and by institutions in the community that serve young children;

(6) Resources in the community that could be used to address the needs of Head Start eligible children and their families, including assessments of their availability and accessibility.

(d) The Early Head Start and Head Start grantee and delegate agency must use information from the Community Assessment to:

(1) Help determine the grantee's philosophy, and its long-range and short-range program objectives;

(2) Determine the type of component services that are most needed and the program option or options that will be implemented;

(3) Determine the recruitment area that will be served by the grantee, if limitations in the amount of resources make it impossible to serve the entire service area.

(4) If there are delegate agencies, determine the recruitment area that will